



DISTRICT ATTORNEY
QUEENS COUNTY
125-01 QUEENS BOULEVARD
KEW GARDENS, NEW YORK 11415-1568
(718)286-6000

Richard A. Brown
District Attorney

January 4, 2018

Ms. Emma Whitford
MuckRock News
DEPT MR 64661
411A Highland Avenue
Somervilles, MA 02144-2516

Re: Freedom of Information Law Request
Cannabis Oil Prosecutions

Ms. Whitford:

Your December 4, 2018, Freedom of Information Law (FOIL) request seeking data regarding prosecutions related to the possession of cannabis oil in various forms is denied.

Under FOIL, absent certain exemptions, an agency is required to disclose records that it possesses and maintains. An agency cannot, however, disclose a records that it does not possess or maintain. *See* Public Officers Law § 89(3); *Badalamenti v. Office of Dist. Attorney Nassau Cnty*, 89 A.D.3d 1019 (2d Dept. 2011), *Rattley v. New York City Police Dep't*, 96 N.Y.2d 873, 875 (2001). A diligent search of this Office's records which included inquiring with the Director of Information Services (the computer department that manages the case data) and the Bureau Chief of the Intake Bureau (responsible for processing arrests and commencing prosecutions) revealed that this Office does not have the collect the data you seek. When a person is charged with a marijuana offense, the type of marijuana substance is not a data field that is captured in this Agency's database. As such, this Agency does not have the ability to determine how many marijuana prosecutions for the specific charges you list in your letter are related to cannabis oil from prosecutions related to vegetative marijuana material. For this reason, your request is denied.

Within thirty days of this letter, you can appeal this determination to Deputy Executive Assistant District Attorney John M. Castellano, the FOIL Appeals Officer, Office of the District Attorney of Queens County, 125-01 Queens Boulevard, Kew Gardens, New York 11415.

Regards,

/s/
Anastasia Spanakos
Assistant District Attorney
Records Access Officer